

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA **F I L E D**

ROGER MILLER, DEBRA MILLER,  
and BRADLEY MILLER, individually  
and ROGER MILLER and DEBRA  
MILLER, as parents and next friend of  
AUSTIN and NICOLE MILLER, minor  
children,

Plaintiffs,

vs.

BUDDY and LORI VISSER,  
individually, and the CITY OF TULSA,

Defendants.

NOV - 6 2000

Phil Lombardi, Clerk  
U.S. DISTRICT COURT

**00CV 958H (M)**✓

Case No.

Tulsa County District Court  
No. CJ 2000-04839

**NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. §§1331, 1441 and 1446, Defendant City of Tulsa, Oklahoma, hereby removes this action from the District Court of Tulsa County, Oklahoma, where in it is titled and filed as: *Roger Miller, Debra Miller, and Bradley Miller, individually, and Roger Miller and Debra Miller, as parents and next friend of Austin and Nicole Miller, minor children, vs. Buddy and Lori Visser and the City of Tulsa*, CJ 2000-04839. As grounds for removal, said Defendant further states:

1. Plaintiff filed the original petition in this matter on October 5, 2000.
2. Defendant City of Tulsa was served with a copy of the summons on November 3, 2000.
3. At the time of the filing of Plaintiff's petition and at the present time Defendant City of Tulsa was and is a municipal corporation duly organized and existing under the laws of the State of Oklahoma, with its situs of government and principal place of business located in Tulsa, Oklahoma.

4. Copies of all process, pleadings and the docket sheet on file with the Tulsa County District Court Clerk as of the date of this notice are attached hereto as Exhibit "A."

5. This is a civil action over which this Court has original jurisdiction under the provisions of 28 U.S.C. §1331 and supplemental jurisdiction under the provisions of 28 U.S.C. §1367(a).

6. Under the provisions of 28 U.S.C. §1441(a)(b) and (c), the right exists to remove this cause from the District Court of Tulsa County, Oklahoma, to the United States District Court for the Northern District of Oklahoma, which embraces the location wherein this action is pending.

7. 28 U.S.C. §1331 vests original jurisdiction in this Court because Plaintiff has alleged violations of civil rights under undisclosed provisions of the Constitution of the United States.


8. Defendant City of Tulsa is the only properly served defendant subject to federal claims. As of the date of this notice, there is no evidence that any other named defendants have been served.

9. This notice of removal is filed within thirty (30) days after service upon Defendant City of Tulsa, and is timely under 28 U.S.C. §1446(b).

10. Written notice of the filing of this Notice of Removal was mailed to counsel for the Plaintiff this day pursuant to 28 U.S.C. §1446(d).

11. A copy of this Notice of Removal was filed this day with the Clerk of the District Court of Tulsa County this day pursuant to 28 U.S.C. §1446(d).

CITY OF TULSA, OKLAHOMA  
a municipal corporation

By   
John E. Dorman, OBA 11289  
Senior Assistant City Attorney  
200 Civic Center, Room 316  
Tulsa, Oklahoma 74103  
(918) 596-7717

### CERTIFICATE OF SERVICE

I certify that on the same date this Notice of Removal was filed in the United States District Court for the Northern District of Oklahoma, a true and correct copy of said Notice of Removal was served upon the above-named Plaintiff by mailing said copies to: Wayne M. Copeland, 1602 South Main Street, Tulsa, Oklahoma 74119-4410; Steven W. Daniels, Gibbs and Harmon, 4606 South Garnett, Suite 310, Tulsa, Oklahoma 74146; and further that a copy of said Notice of Removal was delivered to the Court Clerk of Tulsa County, Oklahoma, Tulsa County Courthouse, for filing that same date.

  
John E. Dorman

## OCIS Case Report

Page 1 of 2

The information contained in this report is provided in compliance with the Oklahoma Open Records Act, 51 O.S. § 24A.1. Use of this information is governed by this act, as well as other applicable state and federal laws.

**IN THE DISTRICT COURT IN AND FOR TULSA COUNTY, OKLAHOMA**

ROGER MILLER, PARENT DEBRA MILLER, PARENT OF BRADLEY MILLER, AUSTIN MILLER, MINOR NICOLE MILLER, MINOR Plaintiff, v. BUDDY VISSER, Defendant, and LORI VISSER, Defendant, and THE CITY OF TULSA, Defendant.	<b>No. CJ-2000-4839</b> (Civil relief more that \$10k) Filed: 10/05/2000  Judge: Sharron M. Bubenik
---	---

**Docket**

Date	Code	Count	Party	Serial #	Entry Date
10/05/2000	TEXT	-	-	40419106	Oct 5 2000 12:45:49:000PM
	Civil relief more that \$10k Initial Filing.				
10/05/2000	OTHER	-	-	40419107	Oct 5 2000 12:45:49:000PM
10/05/2000	PFE1	-	-	40419108	Oct 5 2000 12:45:49:850PM
	PETITION(\$ 69.00)				
10/05/2000	PFE7	-	-	40419109	Oct 5 2000 12:45:49:850PM
	LAW LIBRARY FEE(\$ 3.00)				
10/05/2000	DMFE	-	-	40419110	Oct 5 2000 12:45:49:850PM
	DISPUTE MEDIATION FEE(\$ 2.00)				
10/05/2000	CHAB	-	-	40419111	Oct 5 2000 12:45:49:850PM
	Child Abuse Multidisciplinary Fee(\$ 10.00)				
10/05/2000	ACQUUNT	-	-	40419119	Oct 5 2000 12:46:48:520PM
	Receipt # 2000-118138 on 10/05/2000. Payor: WAYNE M COPELAND Total Amount Paid: \$ 84.00. Line Items: CJ-2000-4839: \$69.00 on AC01 CLERK'S FEES Civil and Criminal. CJ-2000-4839: \$3.00 on AC23 (Formerly AC03 CV) LAW LIBRARY FEE Civil and Criminal. CJ-2000-4839: \$2.00 on AC64 (Formerly AC13) Dispute Mediation Fees Civil Only. CJ-2000-4839: \$10.00 on AC69 CHILD ABUSE MULTIDISCIPLINARY FEE.				
10/27/2000	SMF	-	-	40569385	Oct 27 2000 3:19:01:943PM
	SUMMONS FEE ACO1 5.00(\$ 15.00)				
10/27/2000	SMIMA	-	-	40569398	Oct 27 2000 3:19:14:053PM
	SUMMONS ISSUED - MAILED BY ATTORNEY				
10/27/2000	SMIP	-	-	40569401	Oct 27 2000 3:19:26:083PM
	SUMMONS ISSUED - PRIVATE PROCESS SERVER 2				
10/27/2000	ACCOUNT	-	-	40569413	Oct 27 2000 3:20:25:143PM

OCIS Case Report

Page 2 of 2

Receipt # 2000-127689 on 10/27/2000.

Payor: MILLER, AUSTIN Total Amount Paid: \$ 15.00.

Line Items:

CJ-2000-4839: \$15.00 on AC01 CLERK'S FEES Civil and Criminal.

---

Report Generated by The Oklahoma Court Information System at November 06, 2000 13:58:51.

---

End of Transmission.

Form 2290 (Rev. 9-85) Page 2 of 5 CFB

IN THE DISTRICT COURT IN AND FOR TULSA COUNTY  
STATE OF OKLAHOMA

**DISTRICT COURT  
FILED**

**OCT 5 - 2000**

SALLY HOWE SMITH, COURT CLERK  
STATE OF OKLA. TULSA COUNTY

ROGER MILLER, DEBRA MILLER, )  
and BRADLEY MILLER, individually, and )  
ROGER MILLER and DEBRA MILLER, )  
as parents and next friend of AUSTIN and )  
NICOLE MILLER, minor children, )

Plaintiffs, )

v. )

BUDDY and LORI VISSER, individually )  
and THE CITY OF TULSA, )

Defendants. )

Case No.:

**CJ 2000 64839**

**SHARRON BUBENIK**

) JURY TRIAL DEMANDED

) ATTORNEYS LIEN CLAIMED

**PETITION**

COMES NOW the Plaintiff's, by and through their attorneys of record, Wayne M. Copeland and Steven W. Daniels, and for their cause of action against the Defendant's Buddy and Lori Visser (hereinafter "Visser's") and the City of Tulsa state:

1. The events giving rise to this action occurred on or about April 7, 2000, in Tulsa County, Oklahoma.

2. The Visser's reside in Okmulgee County and the City of Tulsa is a municipal corporation in Tulsa, Oklahoma. The Plaintiff's were residents of Oklahoma, on April 7, 2000, therefore, venue and jurisdiction are proper.

**GENERAL ALLEGATIONS OF FACT**

3. On Friday, April 7, 2000, at approximately 9:55 p.m., Debra Miller was driving her 1998 Pontiac Bonneville 4-door automobile southbound on U.S. Highway 75. Ms. Miller, who was accompanied by three (3) of her children and a guest minor child, turned west onto 201<sup>st</sup> East Avenue, when a white vehicle pulled in front of her vehicle and stopped and another vehicle pulled

in and stopped behind her. The operator of the white vehicle, now known to be Tulsa Police Officer Buddy Visser, exited his vehicle, pointed a firearm at Ms. Miller and the occupants and began ordering her to exit the vehicle or she would be shot. The assisting officer, now known to be Tulsa Police Officer Laurie Visser, also exited the vehicle she was operating and pointed her firearm at Ms. Miller and told her to exit the vehicle or she would be shot. Debra Miller was forcibly removed from her vehicle, as was her son, Bradley Miller. Buddy Visser forcibly removed Bradley Miller from the vehicle by pulling him by his hair, shoved him to the ground, and put his pistol to Bradley Miller's head while threatening him with death. For approximately one (1) hour, Ms. Miller, her family and guest were cursed, intimidated, harassed and threatened with death, bodily harm, incarceration, vehicle forfeiture, and DHS intervention, all without any legal justification. Upon the arrival of the Tulsa County Sheriff's Office, Ms. Miller and her occupants were allowed to continue home after this ordeal. Ms. Miller subsequently contacted the Tulsa Police Department Internal Affairs Division as well as the criminal investigation unit of the Tulsa County Sheriff's Office to initiate her grievances.

#### COUNT I - ASSAULT

4. Plaintiff's Debra Miller, Bradley Miller, Nicole Miller and Austin Miller reallege and readopt paragraphs 1 through 3 as though fully set forth herein.

5. Defendants Vissers' actions were made with the intent of making a harmful and offensive contact with the Plaintiff's and/or with the intent of putting Plaintiff's in apprehension of such a contact. Plaintiff's were placed in apprehension of an immediate harmful and offensive contact with their person by the conduct of the Visser's and/or the Plaintiff's were caused to suffer fright and terror. The assault committed by the Visser's was intentional, reckless, malicious, willful and outrageous.



**COUNT II - BATTERY**

6. Plaintiff's Debra and Bradley Miller reallege and readopt paragraphs 1 through 5 as though fully set forth herein.

7. The Visser's, without the consent of the Plaintiff's Debra and Bradley Miller, acted either with the intent of making a harmful contact with the Plaintiff's and/or with the intent of putting Plaintiff's in apprehension of such a contact. The Visser's actions resulted in a harmful and offensive contact with the Plaintiff's.

**COUNT III - FALSE ARREST AND FALSE IMPRISONMENT**

8. Plaintiff's Debra, Bradley, Nicole and Austin Miller reallege and readopt paragraphs 1 through 7 as though fully set forth herein.

9. The Visser's, acting under color of authority and without the consent and will of the Plaintiff's, willfully and maliciously restrained the Plaintiff's from exercising their freedom of movement. The Visser's actions resulted in an unlawful restraint of the Plaintiff's without legal justification.

**COUNT IV - INTENTIONAL INFLICTION OF SEVERE EMOTIONAL DISTRESS**

10. Plaintiff's Debra, Bradley, Nicole and Austin Miller reallege and readopt paragraphs 1 through 9 as though fully set forth herein.

11. The Visser's actions were so extreme and outrageous as to go beyond all possible bounds of decency and were atrocious and utterly intolerable in our society. The Visser's intentionally and/or recklessly caused severe emotional distress to the Plaintiff's beyond that which a reasonable person could be expected to endure.

**COUNT V - NEGLIGENT INFLICTION OF SEVERE EMOTIONAL DISTRESS**

12. Plaintiff's Roger, Debra, Nicole and Austin Miller reallege and readopt paragraphs 1 through 11 as though fully set forth herein.

13. The Visser's were negligent by their actions and conduct taken during the arrest, assaults, batteries and imprisonments of the Plaintiffs. As a result of the Visser's negligence, the minor children suffered severed fright and emotional trauma.

#### **COUNT VI - MALICIOUS PROSECUTION**

14. Plaintiff's Debra and Bradley Miller reallege and readopt paragraphs 1 through 13 as though fully set forth herein.

15. The Visser's commenced a felony criminal action against the Plaintiff's Bradley and Debra Miller with the Glenpool Police Department on or about April 8, 2000, charging them with the felony offense of throwing an object from a moving vehicle. The commencement of the prosecution for this criminal offense was malicious and instigated by the Visser's without probable cause. As a result of the attempted criminal prosecution, which has been legally and finally terminated in favor of the Plaintiff's, the Plaintiff's sustained further injury.

#### **COUNT VII - NEGLIGENT HIRING, TRAINING AND SUPERVISION**

16. Plaintiff's Roger, Debra, Bradley, Nicole and Austin Miller reallege and readopt paragraphs 1 through 15 as though fully set forth herein.

17. Based upon the belief of the Plaintiff's, the City of Tulsa was negligent in the hiring, training and supervision of the Visser's who purportedly were acting under color of authority on the date this action arose.

#### **COUNT VIII - TITLE 42 § 1983 DEPRIVATION OF RIGHTS**

18. Plaintiff's Debra, Bradley, Nicole and Austin Miller reallege and readopt paragraphs 1 through 17 as though fully set forth herein.

19. The Visser's, acting under color of authority, deprived the Plaintiff's of their inalienable rights and privileges and immunities secured by the Constitution and laws of the United States.

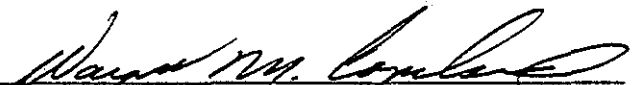
**DAMAGES**

20. Plaintiff's reallege and readopt paragraphs 1 through 19 as though fully set forth herein.

As a direct and proximate result of the willful, malicious, intentional, reckless, outrageous and negligent conduct of the Defendant's, the Plaintiff's have sustained serious and permanent injuries, physical pain, emotional trauma, emotional suffering and discomfort, both past and future, loss of the full of enjoyment of life, and have incurred and can expect to incur expenses for reasonable and necessary medical care and evaluation.

WHEREFORE, Plaintiff's respectfully pray for judgment in their behalf and against the Defendant's for actual and punitive damages in excess of TEN THOUSAND DOLLARS (\$10,000.00), together with all interest, costs, attorney fees and other such relief as this Court deems just and proper.

Respectfully submitted,

By: 

Wayne M. Copeland, OBA# 13880

1602 South Main Street

Tulsa, Oklahoma 74119-4410

Office: (918) 583-1464

Facsimile: (918) 583-1466

-and-

By: 

Steven W. Daniels, OBA# 12259

Gibbs & Harmon

4606 South Garnett, Suite 310

Tulsa, Oklahoma 74146

Office: (918) 664-7292

Facsimile (918) 664-0302

ATTORNEYS FOR PLAINTIFFS